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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/416,210	10/08/1999	WILLIAM LANE	ESPD:177/GLE	5873

7590 01/29/2003

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EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.
09/416,210

Applicant(s)
Lane et al.

Examiner
Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 20, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-52 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The response filed November 20, 2002 has been entered.

Claim Rejections - 35 USC § 112, 1st paragraph

2. Claims 45-52 stand rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention

The original disclosure does not appear to provide support for a “handle cam” or for a “camming portion” as referred to in the conventional sense. Specifically, in further considering applicant’s amendments and remarks, there is no “camming” action that occurs. Rather, it appears that there is an eccentric connection of the rod 50 to the handle 46 such that rotation of the handle 46 tensions the rod 50. The Examiner’s understanding of the disclosed structure is as follows. It appears that handle 46 is mounted in the housing 56 for simple rotational movement, which rotational movement is supported in part by annular bearings 48. There appears to be no surface that is in contact with the outer circumferential surface of the camming portion 52. In fact, it is set forth in the claims (e.g., in claim 45) that the annular bearing receives the camming portion “such that the handle cam is rotatably supported only by the annular bearing to eliminate direct contact between the camming portion and the housing.” Further, there appears to be no

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relative linear motion between the handle 46, including its camming portion 52, with respect to the housing 56. The tightening of, or the linear motion translated to, the rod 50 appears to be solely due to the eccentric connection of the rod to the camming portion, which connection is offset from the axis of rotation of the handle 46/camming portion 52. Thus, it remains unclear as to what “camming” action occurs.

Claim Rejections - 35 USC § 112, 2nd paragraph

3. Claims 45-52 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 45, lines 10-12, ✓ the recitation “to eliminate direct contact between the camming portion and the housing” renders the claims vague and indefinite, particularly since it is not clear how any “camming” can occur if there is no contact by the camming surface (i.e., if there is no “camming” action, then it is not clear how the surface be a camming surface).

In claim 50, lines 14-16, ✓ the recitation “to eliminate direct contact between the camming portion and the housing” renders the claims vague and indefinite, particularly since it is not clear how any “camming” can occur if there is no contact by the camming surface (i.e., if there is no “camming” action, then it is not clear how the surface be a camming surface).

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 45, 46, 48-50 and 52, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Theising, pn 5,181,446 (hereafter Theising '446).

Theising '446 discloses a fence assembly as well as a table saw with every structural limitation of the claimed invention as best understood from the claims including a fence channel (e.g., 17); a head assembly (e.g., 15) including a housing and a handle cam (e.g., 69) which extends from a camming portion (e.g., the camming portion designated by the cross-hatched portion surrounding the threaded portion in Figure 2, which camming portion is shown in Figure 1 extending through both annular bearing portions), the handle cam having a single piece construction; a locking pawl (e.g., 43) of a single piece construction; and a rod (e.g., 55). Further, Theising '446 discloses two annular bearings (e.g., 65). As best understood from Theising '446, there is a round portion (e.g., 65) on each side of the threadable interconnection (61) of rod (55). These bearing portions (e.g., 65) are clearly annular since they are ring shaped and include a round outer surface which slides against a curved element (67) and an opening through which the camming portion extends.

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 47, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Theising, pn 5,181,446 (hereafter Theising '446).

Theising '446 lacks the cam lever being constructed out of injection-molded plastic.

However, the Examiner takes Official notice that it is old and well known to construct parts from injection-molding to gain well known benefits including easier and less expensive manufacturing and reduced weight. Therefore, it would have been obvious to one having ordinary skill in the art to construct the handle 69 of Theising '446 by injection-molding for the well known benefits including those described above.

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8. Claim 51, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Theising, pn 5,181,446 (hereafter Theising '446) as applied to claim 50 above, and further in view of Tautz, pn 1,938,548 (hereafter Tautz '548).

Theising '446 discloses a fence assembly with almost every structural limitation of the claimed invention including a microadjust assembly, wherein the microadjust assembly includes a knob handle (e.g., 95), a bumper (e.g., 101), a spring (e.g., 97). Theising '446 lacks the bumper comprising an elastomeric material, specifically rubber, and defining a substantially smooth outer surface and cooperating with a smooth surface on the rail. Tautz '548 discloses that it is well known to provide a bumper having a smooth surface which cooperates with the smooth surface of the fence (see page 5, lines 56-84). Such a configuration provides well known benefits including ease and reduces costs of manufacture since cooperating teeth do not have to be formed in the bumper and rail. Therefore, it would have been obvious to one having ordinary skill in the art to provide a bumper having a smooth surface which cooperates with the smooth surface of the fence. Further, regarding the material of the bumper, the Examiner takes Official notice that it is old and well known in the art to make such friction-type gear wheels from an elastomeric material, particularly rubber, to enhance the friction grip between the cooperating surfaces. Therefore, it would have been obvious to one having ordinary skill in the art to make the bumper from an elastomeric material, including rubber, to gain the well known benefits including that described above.

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Response to Arguments

9. Applicant's arguments filed November 20, 2002 have been fully considered but they are not persuasive.

It is respectfully submitted that applicant's arguments have been carefully reviewed. However, the Examiner maintains the position that the terms "cam" and "camming" have specific meanings, particularly in the mechanical arts. Simply because a mechanical element transforms rotary motion into linear motion does not necessarily mean that mechanical element is cam. For example, eccentric connections (which the Examiner believes describes the present invention) can be configured such that rotary motion is transformed into linear motion. Further, the Examiner acknowledges that Applicant may be his or her own lexicographer as long as the meaning assigned to the term is not repugnant to the term's well known usage (e.g., see *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947)). However, the Examiner respectfully submits that the meaning assigned by applicant to the term "camming" in the present invention is repugnant with the term's well known usage. The usage of the term in the manner set forth in the present invention clearly has created confusion and will likely create further confusion in determining what is being claimed.

Regarding the prior art rejections, the Examiner respectfully submits that it has been difficult trying to ascertain what is being claimed based on applicant's claim language. However, the Examiner believes that the prior art, specifically Theising '446, teaches or fairly suggests the claimed invention.

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Conclusion

10. Applicant's amendments necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Tuesday through Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3590; informal/draft papers - (703)305-9835.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
January 24, 2003